

House Bill 1484 (AS PASSED HOUSE AND SENATE)

By: Representative Tumlin of the 38th

A BILL TO BE ENTITLED

AN ACT

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to clarify the circumstances under which an insurable interest exists with respect to personal insurance; to codify the common law with respect to certain insurable interests; to change certain provisions concerning prerequisites for replacement life insurance exceeding insurance being surrendered; to change special employee group provisions of group life insurance; to alter required policy provisions for group life insurance; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by striking Code Section 33-24-3, relating to insurable interest of personal insurance, and inserting in its place the following:

"33-24-3.

(a) An insurable interest, with reference to personal insurance, is an interest based upon a reasonable expectation of pecuniary advantage through the continued life, health, or bodily safety of another person and consequent loss by reason of such person's death or disability or a substantial interest engendered by love and affection in the case of individuals closely related by blood or by law.

(b) An individual has an unlimited insurable interest in his or her own life, health, and bodily safety and may lawfully take out a policy of insurance on his or her own life, health, or bodily safety and have the policy made payable to whomsoever such individual pleases, regardless of whether the beneficiary designated has an insurable interest.

(c) The trustee of a trust established by an individual settlor has an insurable interest in the life of that individual settlor and has the same insurable interest in the life of any other individual as does such individual settlor. The trustee of a trust has the same insurable

interest in the life of any other individual as does any beneficiary of the trust with respect to proceeds of insurance on the life of such individual or any portion of such proceeds that are allocable to such beneficiary's interest in such trust. If multiple beneficiaries of a trust have an insurable interest in the life of the same individual, the trustee of such trust has the same aggregate insurable interest in such individual's life as such beneficiaries with respect to proceeds of insurance on the life of such individual or any portion of such proceeds that is allocable in the aggregate to such beneficiaries' interest in the trust.

~~(c)~~(d) A corporation, foreign or domestic, has an insurable interest in the life of any individual:

(1) Holding at least 10 percent of the issued and outstanding shares of such corporation;

or

(2) In whom the shareholders holding a majority of the issued and outstanding shares have an insurable interest, whether arising out of their status as shareholders of the corporation or otherwise,

and in the life or physical or mental ability of any of its directors, officers, or employees or the directors, officers, or employees of any of its subsidiaries or any other person whose death or physical or mental disability might cause financial loss to the corporation; or, pursuant to any contractual arrangement with any shareholder concerning the reacquisition of shares owned by him or her at the time of his or her death or disability, on the life or physical or mental ability of that shareholder for the purpose of carrying out such contractual arrangement; or, pursuant to any contract obligating the corporation as part of compensation arrangements or pursuant to a contract obligating the corporation as guarantor or surety, on the life of the principal obligor. The trustee of a trust established by a corporation for the sole benefit of the corporation has the same insurable interest in the life or physical or mental ability of any person as does the corporation. The trustee of a trust established by a corporation providing life, health, disability, retirement, or similar benefits to employees of the corporation or its affiliates and acting in a fiduciary capacity with respect to such employees, retired employees, or their dependents or beneficiaries has an insurable interest in the lives of employees for whom such benefits are to be provided. As used in this subsection, the term 'employee' shall include any and all directors, officers, employees, or retired employees. The term 'employee' shall include any former employee, but only for the purpose of replacing existing life insurance that will be surrendered in exchange for new life insurance in an amount not exceeding the insurance being surrendered.

~~(c.1)~~ (e) The insurable interest of a corporation or trustee which has been established pursuant to subsection ~~(c)~~ (d) of this Code section shall be conveyed automatically to

1 another corporation or to the trustee of a trust established by such other corporation for its
2 sole benefit which has acquired by purchase, merger, or otherwise all or part of the first
3 corporation's business. A corporation or the trustee of a trust established by such
4 corporation for its sole benefit may exchange any policy of insurance issued to itself or to
5 another corporation or the trustee of a trust established by such other corporation for its
6 sole benefit from which the exchanging corporation has acquired by purchase, merger, or
7 otherwise all or part of such other corporation's business for a new policy of insurance
8 issued to itself without establishing a new insurable interest at the time of such exchange.

9 (f) A shareholder in a corporation has an insurable interest in the life of any other
10 shareholder pursuant to any contractual arrangement between or among such shareholders
11 concerning the purchase by surviving shareholders of shares owned by a deceased or
12 disabled shareholder, for the purpose of carrying out such contractual arrangement.

13 (g) A partnership, limited liability company, business trust, or other business entity
14 established under the laws of any state or of the United States shall have the same insurable
15 interests as a corporation, as set forth in subsections (d) and (e) of this Code section,
16 including, without limitation, insurable interests in such entity's partners, members, or
17 holders of other equity ownership interests and in officers, directors, employees, and those
18 of any subsidiaries of any such entity. The partners of a partnership, the owners of a
19 limited liability company, and the owners of equity interests in any form of business entity
20 have the same insurable interest in the lives of the other partners, members, or equity
21 interest owners as do shareholders of corporations.

22 ~~(d)~~(h) An insurable interest must exist at the time the contract of personal insurance
23 becomes effective but need not exist at the time the loss occurs.

24 ~~(e)~~(i) Any personal insurance contract procured or caused to be procured upon another
25 individual is void unless the benefits under the contract are payable to the individual
26 insured or such individual's personal representative or to a person having, at the time when
27 the contract was made, an insurable interest in the individual insured. In the case of a void
28 contract, the insurer shall not be liable on the contract but shall be liable to repay to the
29 person or persons who have paid the premiums all premium payments without interest.

30 ~~(f)~~(j) A charitable institution as defined under Sections 501(c)(3), 501(c)(6), 501(c)(8), and
31 501(c)(9) of the Internal Revenue Code of 1986 shall have an insurable interest in the life
32 of any donor.

33 (k) The insurable interests set forth in this Code section are not exclusive but are
34 cumulative of and not in lieu of insurable interests existing in common law and not
35 expressly set forth in this Code section. No part of this Code section specifically
36 recognizing any insurable interest shall create any presumption or implication that such

1 insurable interest did not exist prior to July 1, 2006. To the contrary, an insurable interest
2 shall be presumed with respect to any life insurance policy issued prior to July 1, 2006, to
3 any person whose insurable interest is recognized in this Code section."

4 **SECTION 2.**

5 Said title is further amended by striking the introductory paragraph and paragraph (1) of
6 Code Section 33-24-6.1, relating to prerequisites for replacement life insurance exceeding
7 insurance being surrendered, and inserting in lieu thereof the following:

8 "Notwithstanding the provisions of subsection ~~(c)~~ (d) of Code Section 33-24-3, subsection
9 (d) of Code Section 33-24-6, or paragraph (11) of Code Section 33-27-3 which relate to the
10 replacement of existing life insurance, any new life insurance may exceed the insurance
11 being surrendered:

12 (1) When an entity has a proper interest pursuant to subsection ~~(c)~~ (d) or ~~(c.1)~~ (e) of
13 Code Section 33-24-3 and the authority to effectuate life insurance pursuant to the
14 provisions of paragraph (4), (5), or (6) of subsection (a) of Code Section 33-24-6; and"

15 **SECTION 3.**

16 Said title is further amended by striking paragraph (10) of Code Section 33-27-1, relating to
17 group life insurance generally, and inserting in lieu thereof the following:

18 "(10) SPECIAL EMPLOYEE GROUPS. ~~A corporation~~ An entity or a trustee of a trust
19 established by ~~a corporation~~ an entity which has an insurable interest in employees pursuant
20 to subsection ~~(c)~~ (d) of Code Section 33-24-3 and authority to effectuate insurance on
21 employees pursuant to paragraph (4) or (5) of subsection (a) of Code Section 33-24-6 may
22 establish an employee group to effectuate group life insurance policies on employees when
23 such corporation or trustee of a trust is providing life, health, disability, retirement, or
24 similar benefits to employees, provided that the premium for such group policies is wholly
25 paid by the corporation or trustee of the trust and the proceeds of such policies are used to
26 provide supplemental funding for such employee benefit plans."

27 **SECTION 4.**

28 Said title is further amended by paragraph (11) of subsection (a) of Code Section 33-27-3,
29 relating to required group life insurance policy provisions, and inserting in lieu thereof the
30 following:

31 "(11) ~~A corporation~~ An entity or trustee of a trust having an insurable interest pursuant
32 to subsection ~~(c)~~ (d) of Code Section 33-24-3 and effectuation authority pursuant to
33 paragraph (4) or (5) of subsection (a) of Code Section 33-24-6, providing life, health,

1 disability, retirement, or similar benefits to employees may designate the beneficiary of
2 a group life insurance policy, ~~providing~~ provided that the corporation or trustee of a trust
3 uses the insurance proceeds to provide life, health, disability, retirement, or similar
4 benefits to such employees. As used in this paragraph, the term 'employees' shall include
5 directors, officers, employees, retired employees, or the dependents of such persons. The
6 term 'employee' shall include any former employee, but only for the purpose of replacing
7 existing life insurance that will be surrendered in exchange for new life insurance in an
8 amount not exceeding the insurance being surrendered."

9 **SECTION 5.**

10 All laws and parts of laws in conflict with this Act are repealed.